THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21272 of 2006

27.10.2006

Between:

Smt.Shashikala, W/o.late Ramachandraiah

... Petitioner

AND

The Joint Collector, Ranga Reddy District, Hyderabad

And others

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21272 of 2006

ORDER:

The petitioner and third respondent herein are daughters of late Vadla Nagaiah, who was owner of land admeasuring Acs.13.34 guntas in survey Nos.9, 121 and 325/A situated at Nyalata Village of Vhevella Mandal in Ranga Reddy District. After the demise of the father, the petitioner, third respondent and their mother were allegedly enjoying the land. The petitioner filed a suit being O.S.No.64 of 2003 on the file of the Court of the Senior Civil Judge, Vikarabad, for partition of these properties. The third respondent produced Occupancy Rights Certificate (ORC) dated 27.6.1994, which was marked as Ex.B.5, issued by the second respondent in favour of third respondent and claimed absolute right over the property. The petitioner allegedly came to know about the issuing of ORC in favour of third respondent only on 23.2.2006, when the same was filed before the Civil Court during the trial and, therefore, the petitioner filed an appeal under Section 24 of A.P. (Telangana Area) Abolition of Inams Act, 1955 (hereafter called, the Inams Abolition Act) before the first respondent. The petitioner also filed an application under Section 5 of Limitation Act, 1963, to condone the delay of more than twelve years in filing the appeal under Section 24 of Inams Abolition Act. The first respondent rejected the appeal by passing the impugned order, which is assailed in the writ petition. The petitioner seeks an order to set

aside the impugned order and further to direct the first respondent to entertain the appeal and dispose of the same on merits.

Learned Counsel for the petitioner submits that delay in filing the appeal under Section 24 of Inams Abolition Act is not material and the first respondent ought to have taken a lenient view. He placed reliance on the decision of this Court in **A.Balaiah v The District Collector, Hyderabad District**[1]. Learned Assistant Government Pleader for Revenue (General-T) opposed the writ petition. He submits that an appeal under Section 24 of Inams Abolition Act has to be filed within a period of thirty (30) days, unless such time is enlarged by the Joint Collector and when the Joint Collector refused to condone the delay, the same cannot be challenged.

Section 24 of Inams Abolition Act reads as under.

24. Appeals from orders under Section 10 to prescribed authority:-

(1) Any person aggrieved by a decision of the Collector under Section 10 may, within thirty days from the date of decision, or such further time as the prescribed authority may for sufficient cause allow, appeal to the prescribed authority and its decision shall be final.

(2) If any question arises whether any building or land falls within the scope of Section 9 the same shall be referred to the prescribed authority whose decision shall be final.

A plain reading of the above provision would show that an appeal against the order of the Revenue Divisional Officer (RDO) granting ORC shall have to be filed within thirty (30) days and if for any reason, the same is not filed within the said period, discretion is given to the Joint Collector to accept the appeal. In such a case, Section 5 of Limitation Act has no application. In **A.Balaiah** (supra), this Court held as under.

October 27, 2006 (**V.V.S.RAO,J**)

YS

[1] 1983(1) ALT NRC 7